THE OBLIGATION TO OBEY THE LAW[1]

It is often said that we have an obligation to obey the law just because it is the law. This idea has been espoused in the West at least as early as Socrates, and it is espoused today. It is not the special claim of any particular ideology, but has been held by advocates of most political persuasions. In times of crisis it is argued over with passion, and what is at issue is none other than the question of how much obedience and loyalty people owe to their political institutions.

Let us call the claim that people have an obligation to obey the law because it is the law the "obligation-to-law (OL) principle." In what follows I shall attempt to state this principle in a clear and precise manner in the hope of capturing exactly what is meant by those who endorse it. I shall not attempt to evaluate the principle here, but to do the groundwork necessary for such an evaluation.

My task will be easier if we keep in mind the following questions: What kind of obligation does a proponent of the principle have in mind? What does he mean by 'law' and 'obeying the law'? Upon whom is this obligation supposed to fall? And how "powerful" is this obligation: that is, is it "absolute" or "*prima facie*" or something else?

LEGAL AND MORAL OBLIGATION

The sort of obligation being claimed, I believe, is always moral and not legal. I shall use the phrase 'legal obligation' in such a way that it is necessarily true that if a law applies to a man he has a legal obligation to obey it. The assertion that a person has a legal obligation to do something is just the assertion that there exists a law, requiring him to do it, under whose jurisdiction he falls. What is being claimed by the proponents of the OL-principle, then, is that we have a moral obligation to fulfill our legal obligations.

It is also clear, I think, that those who claim that we have an obligation to obey the law are not arguing that it is always or generally in our best interest to do so. They are not just giving us prudential advice, for they would hold that we ought sometimes to obey the law when it is not in our best interest, or when we can get away with breaking it.

THE NATURE OF LAW

It is alleged, then, that there is a moral obligation to obey the law. But what is a law and how shall the term 'law' be used? The kind of laws I am talking about, it should be obvious, are the laws of a state. These can be distinguished from scientific laws in that they are prescriptive, rather than descriptive. They are rules intended to govern the behavior of rational creatures, who have the power to obey them or disobey them, as they wish. Descriptive laws, on the other hand, describe invariable or statistical regularities in nature; the entities they govern "obey" them because they must, not because they want to or think it best. The laws of a state can also be distinguished from moral "laws" or principles. Whatever else they may or may not be, moral principles are the standards of moral criticism and thus are not themselves open to moral criticism. The laws of a state, on the other hand, are open to moral criticism and thus cannot be identified with moral principles.

Most importantly, the laws of a state can be distinguished from the rules of the moral code of a society in that the latter are established and enforced by informal means, by

"mere opinion" and social pressure, while the laws of a state are the "official" and formal rules of the society. They are explicitly adopted by men who have the authority to make them, who have followed certain procedures, and who have established explicit sanctions to be applied to those who break their prescriptions. The laws of a state are distinguished from the rules of "positive morality" by the institutionalization required for their establishment and enforcement. A law of a state is thus a prescriptive social rule, which is the product of some sort of explicit institutionalization.

A central task of the philosophy of law is to clarify the nature of the institutionalization that makes a rule into a law. Doing this is giving an analysis of the concept of law. In order to clarify the nature of the claim that there is an obligation to obey the law, I do not think it is necessary to give such an analysis. The claim rests on an "intuitive" understanding of what the nontechnical term 'law' means and refers to in ordinary usage. Some of the arguments for the claim that there is an obligation to obey the law do, however, rest on certain analytical claims about the nature of law, and for the *evaluation* of those arguments these analytical claims need to be taken up.

It is also worth pointing out that a natural law theorist, like Aquinas, may disagree with some of the simple points about law I have made. For reasons of space I cannot go into his view and my reasons for rejecting it.

CITIZENS AND STATES

Citizenship. Upon whom is the obligation supposed to fall? I believe that proponents of the OL-principle have usually meant to hold that the obligation falls on the *citizens* of a state. This is not to say that noncitizens do not have an obligation to obey the laws of states they visit or reside in. They may very well do so, but the reasons for this may be different from the reasons why the citizens of a state ought to obey its laws; citizenship is supposed to bring with it a *special* obligation to obey the law.

There is a problem, however, concerning the nature of citizenship. Citizenship is not a natural but a conventional and legal relationship between a man and a state. Theoretically at least it is possible for a state to extend citizenship—and its correlative rights and obligations—to people who do not reside in its territory, do not desire its citizenship and do not acknowledge it. Suppose, for example, that the members of a certain state are composed largely of people of one ethnic group and they pass a law conferring citizenship on people of the same ethnic group in a neighboring state. Suppose that the people in the neighboring state do not desire the citizenship, do not acknowledge it, and benefit in no way from it. Shall we say that they nevertheless have an obligation to obey the laws of the first state?

I do not think that those who hold there is an obligation to obey the law would hold that it falls on these people; rather they would say that for a person to have the obligation he must be a citizen in this sense: he must be a "part of the society" which that state directs. The notion of being part of a society is complex, but it means at least this, that the well-being the man achieves is dependent on the structure of social rules, conventions and laws of the society. And this will normally require residence within its territory.

In what follows I shall use the word 'citizenship' in this more "reasonable" sense, and I suggest that the obligation to obey the law is thought to fall on such citizens.

Must the state be just? There is yet another restriction that some will want to make. For reasons that will be brought out later, it may be held that the obligation falls on citizens only if their state has some special moral character, i.e. is just or good or democratic, and so on. For the sake of having a word, let us now take those who would say this as requiring that the state be just. To say this, incidentally, is not to say that citizens of unjust states need never obey the law. It can be held that they ought always to obey the good laws and other laws when disobedience would have bad consequences. But it is to say that they have no "overall" obligation to obey the law, in a sense to be clarified later.

From the clarifications already given, we can distinguish two claims, that any citizen of any state has an obligation to

obey all of its laws or that only citizens of just states have this obligation. One who holds that there is an obligation to obey the law may have either of these in mind, and they must be distinguished.

THE VARIETIES OF LAW

Another clarification about law is necessary. H.L.A. Hart[2] and others have pointed out that not all laws actually prescribe or proscribe certain kinds of behavior. There are laws of a legal system, which Hart calls secondary rules, and which tell us just when a primary rule prohibiting or requiring some specific kind of action has been enacted. A legislator does not break a law if he fails to follow such procedures; he simply fails to make a law. Analogously there are laws that allow us to enter into agreements with others and thereby take on legal obligations; for example, under certain conditions an act of ours can constitute the making of a contract, which is legally enforceable.

From these considerations Richard Wasserstrom has concluded that

> to talk about disobeying the law or about one's obligation to obey the law is usually to refer to a rather special kind of activity, namely, that which is exemplified by, among other things, actions in violation or disobedience of a penal law.[3]

It seems to me that this is slightly misleading. Not all laws that prohibit or prescribe something are penal laws, e.g. a law levying a tax. Moreover, it seems that once we have made a legally valid contract, we then have a legal obligation to fulfill its terms and we thus act against the spirit of the law if we break it, other things being equal.

Consider, next, the case of a legislator who believes he can make it appear to people that a certain law has been enacted, although he has not gone through proper procedures. Suppose he does this and people obey the "law," and violators are punished. Has the legislator himself broken the law? What he has done is usually not punishable, and there may even be no statute precisely forbidding such acts. But, on the other hand,

he has not followed the appropriate, legally validated rules for enacting legislation. And it seems here that this is the significant thing. Whether this should or should not be called "law-breaking," the overriding point is that the legislator has not followed the procedural rules of the legal system, and if there is an obligation to obey the law one violates it by such official lawlessness just as much as when one breaks a penal law. If there is an obligation to obey the law, it surely devolves not only upon ordinary citizens with respect to penal laws and contractual obligations, but also upon officials with respect to using proper legal procedures.

In sum, there are many ways in which we could fail to be *law-abiding*; and the obligation to obey the law might better be described as an obligation to be law-abiding, which includes obeying specific prescriptions of the laws, fulfilling legal obligations, and using proper legal procedures (even though their misuse by certain officials might not be a clear instance of law-breaking).

THE POWER OF THE OBLIGATION

Absolute Obligation. So far I have held that those who believe there is an obligation to obey the law because it is the law have in mind a moral obligation, which falls on the citizens of every state or of "just" states and which is fundamentally an obligation to be law-abiding. We must now raise the question concerning what can be called the *power* of the obligation. I shall say that an obligation to do acts of kind X is *absolute* if it is always our actual duty to do any particular act of that kind when we are confronted with the alternatives of doing it or not doing it. An absolute obligation is never overridden in actual situations by other considerations. It may be held that we have an absolute obligation to obey the law; to say this is to say that it is never morally justifiable in any concrete case to break the law. The obligation is never overridden by other moral features of the situation.

Few who reflect on the matter would nowadays hold this very stringent thesis. It is obvious that a state could set up

cruel and inhumane laws that ought not to be obeyed. The genocidal laws of Nazi Germany are examples of this. In the face of these examples, it is often suggested that the reasons such laws need not be obeyed is that a state like Nazi Germany is thoroughly corrupt and unjust and that there is no obligation to obey the law in such states. But it might be held if a state is good or just or democratic, then there is an absolute obligation to obey all its laws. It is never right to break the laws—even the bad ones—of a good state. If we call the first view, i.e. that the citizens of every state have an absolute obligation to obey all its laws, "absolutism," we can call this more moderate view "modified absolutism."

Modified absolutism avoids some of the more obvious counter-examples that plague absolutism, but it is still not a plausible view. Even the best of societies can, in a weak moment, enact the worst laws or embark on disastrous policies so that disobedience is justified. But to make this point, let us consider not a bad law of such a society, but a very good and reasonable law:

> In the Commonwealth of Pennsylvania it is unlawful to operate a motor vehicle that has not been inspected. The penalty is not high—perhaps $25, more or less, depending on the whims of the magistrate. But the action *is* unlawful. Now suppose an uninspected car is the only vehicle available for transporting an ill person to a hospital for urgently needed care. The position stated implies that such an emergency would not provide a moral justification for breaking the law.[4]

It strains credulity, however, to suppose that anyone would hold that there is no moral justification for breaking the law in cases like this.

The general problem with this kind of absolutism is this: the fact that a particular act has the *feature* of conforming to a good law of a good society does not guarantee that the act will not have *other* features which would make its performance disastrous from a moral point of view. Most importantly, from the feature of conforming to such a law, its actual consequences in a concrete situation cannot be "read off" or deduced, but are determined by the nature of the law

at issue, the effects of obedience or disobedience on other people, the political situation, and so on. It is always possible to imagine an act of obedience to the law having, in concrete circumstances, consequences that would make its performance morally unthinkable. The absolutist must either be blind to this or place too high a valuation on obedience to the law. I conclude, then, that both kinds of absolutism are implausible.

Prima Facie and Presumptive Obligation. A weaker claim still is that the obligation to obey the law is a *prima facie* obligation. But the notion of *prima facie* obligation is complicated, and our first task must be to try to clarify it.

The phrase '*prima facie* obligation' can be used in at least two different ways. When it is said that people have a *prima facie* obligation to do acts of kind X, this could be taken to mean that the fact that an act is of kind X is a good moral reason for doing it, though it may be outweighed by stronger reasons in particular cases. Or it could be taken to mean only that it is likely that any particular action of kind X will turn out to be obligatory. On the latter meaning the fact that an act is of kind X is not *in itself* a good moral reason for doing it, but suggests that there are likely to be such reasons. I will speak of there being a *presumptive obligation* to do X in the latter case and reserve the phrase '*prima facie* obligation' for the former case.

We can gain a clearer understanding of *prima facie* obligation by noting that the view that there are such things as *prima facie* obligations goes along with the idea that there are "intrinsically" right-making and wrong-making features of acts. Consider, for example, the feature of causing an injury to someone other than the agent, and let us call this "M" for maleficence. W.D. Ross[5] and others would hold that insofar as an action has M it is morally criticizable. We cannot, however, conclude without further information that such acts are *actually* wrong because, as we have noted, they may have other features which make them morally praiseworthy and override the fact that they are M. They are thus *prima facie* wrong, and the fact that an act is M is a good reason for not doing it. If the act is to be permissible in some situation its M-ness must be overridden. M, moreover, is the kind of feature

that in itself makes for the wrongness of an act, not because it is connected with some other feature. That is why we can speak of M as being *intrinsically* wrong-making.

To understand the concept of presumptive obligation, let us consider the following claims about promising:

A Most of the time a person makes a promise he causes someone else to have certain expectations.
B Breaking the promise usually upsets those expectations.
C Having one's expectations upset is being injured.
D Injuring someone is *prima facie* wrong.

Propositions A-D cannot be used to justify the claim that there is a *prima facie* obligation to keep promises because they allow the possibility that there be cases in which the making of a promise does not cause expectations and the breaking of it does not cause injury. In such a case, the fact that an act breaks a promise would not be a reason against doing it and that fact does not have to be overridden for the act to be justified. But because of the likelihood that when a promise is broken expectations will be upset, we can speak, given A-D, of a presumptive obligation to keep promises. There are likely to be good reasons against any particular act of promise-breaking.

There are two features of the above case that should be distinguished. First, the connection between breaking promises and causing an injury is contingent; it is logically possible that there be broken promises that cause no harm. Secondly, it is empirically certain that there will be such cases; that is, there are many acts of promise-breaking that cause no harm. Is the obligation only presumptive because of the contingent connection between promise-breaking and harm or because of the empirical certainty that there will be broken promises without harm? This question calls for a decision as to how to make the distinction between presumptive and *prima facie* obligation, and I shall use these terms in such a way that what is important is the logical possibility of broken promises without harm. We can thus define the two kinds of obligation as follows:

> An obligation to do (or not to do) acts of kind X is *prima facie* if and only if X is an intrinsically right-making (or wrong-making) feature of an action.
>
> An obligation to do (or not to do) acts of kind X is presumptive if and only if X is contingently connected with an intrinsically right-making (or wrong-making) feature of an action.

The obligation to do X will be presumptive even if there is a universal law linking X to an intrinsically right-making feature, Y. I choose this way of talking because even in this latter case, it will still make sense to say that X does not give us the "real" reason why the act is right. The intuitive distinction is this: when X is *prima facie* obligatory, X is *the* reason why the act is obligatory, while when X is presumptively obligatory, it is only connected to such a reason.

Complex *Prima Facie* Obligation. Before we can use this distinction there is one more case that we must bring out. It is possible that there be a feature of an act, X, such that it does not at first *seem* to be the case that there is a *prima facie* obligation to do such acts, but when one examines the nature of X more closely, one finds that if an act is of kind X, it logically follows that it is also of kind Y and there is a clear *prima facie* obligation to do acts of kind Y. In such a case I shall say that there is a *prima facie* obligation to do acts of kind X and that X is an intrinsically right-making feature of an act. The peculiar feature of the case is that the term 'X' does not itself clearly identify the nature of that right-making feature or clearly express the reason why the act is right, although that reason can be drawn out by analyzing the concept of X. It may be, for example, that 'X' is a complex description and 'Y' is just one element of the complex and it takes some analysis to realize that Y is a part of X. For the sake of having a name, I shall call such a *prima facie* obligation a "complex *prima facie* obligation."

As an example of a complex *prima facie* obligation, let us consider one of the arguments Socrates uses in the *Crito* to support the claim that there is an obligation to obey the law. Socrates held that a citizen, by not leaving his state, makes an agreement to obey its laws. This is not just a contingent

matter; it follows necessarily from the fact that one is a citizen of a state and has not left it that one has made an agreement to obey its laws. Consider, then, an act of *obedience to the laws of a state by a citizen.* If Socrates' analysis is correct, such an act is necessarily an act of *keeping a promise.* If there is a *prima facie* obligation to keep a promise, there will be an obligation to obey the law. The obligation is *prima facie* rather than presumptive because it is a necessary and not just a contingent matter that obedience to the law by a citizen is the keeping of a promise. Seeing that such obedience is the keeping of a promise is gaining a deeper understanding of what such obedience is; it is not coming to know a generalization based on the experienced concurrence of such acts of obedience and acts of keeping promises. The *prima facie* obligation, however, is complex because the phrase 'obedience to the law by a citizen' does not clearly reveal why such an act is obligatory. Analysis is needed to bring this out. Therefore, if Socrates' analysis is correct and if there is a *prima facie* obligation to keep promises, there is an obligation to obey the law which is both *prima facie* and complex.

As we shall see in the next section, the concept of a complex *prima facie* obligation is extremely important as a tool for analyzing the claim that there is an obligation to obey the law.

***Prima Facie* Obligation and the Law.** Given the distinctions above, to say that there is a *prima facie* obligation to obey the law is to say that the fact that an act conforms to a law is an intrinsically good moral reason for doing it and that being in conformity with a law is an intrinsically right-making characteristic of an act. This explains why it is said that there is an obligation to obey the law *because it is the law*—that an act conforms to the law is itself a good reason for doing it. On this view, moreover, the obligation to obey the law is not based on the content of particular laws. One has an obligation to obey a particular law, not because it is a good law or a just law or even because doing so has good consequences, but because it is the law.

To say all this, however, seems to suggest that the obligation to obey the law is a "fundamental" one, like the obligation not to harm others; no further reason can be or need be given for the claim that one ought to obey the law other than "it is the law." But against this, it seems clear that the claim that there is an obligation to obey the law is one that stands in need of some kind of justification. If acts of law-breaking are wrong, there must be some further reason for this other than that they are acts of law-breaking. Thus it has been held that the obligation to obey the law

> must rest on some more general principle; that is, it must depend on some principle of justice or upon some principle of social utility or the common good, and the like. . . . I mean to exclude the possibility that the obligation to obey the law is based on a special principle of its own.[6]

This seems to me clearly correct. The question of political obligation cannot be resolved by saying that there is an obligation to obey the law and that's that—or by simply asserting that the fact that an act conforms to the law is an intrinsically good reason for doing it. It is not inconceivable that someone might argue this way, but not many people would be convinced by the argument.

If those who hold that there is an obligation to obey the law are committed to the view that the obligation is "fundamental" and that no further reason can be given, then it would be reasonable to conclude that there is no *prima facie* obligation to obey the law. But I do not think that they are committed to this. They can claim that the *prima facie* obligation is a "complex *prima facie* obligation." They can argue that it is possible to show, through an analysis of the concept of law, that every act of obedience to the law *necessarily* has some further feature which is intrinsically right-making and "fundamental." To say that an act is right solely because it conforms to the law does not clearly *identify* the feature which makes it right, and it does not clearly express the reason why such acts are right. But the reason can be brought out by gaining a deeper understanding of what obeying the law really involves. Thus, the feeling that there

must be a "further" reason why we ought to obey the law will be satisfied, but it can be said that this further reason was really involved in the original reason and that we just did not realize this. I believe that attempts to argue for an obligation to obey the law by reference to fair play, tacit consent, or the social contract are attempts of this sort.

Presumptive Obligation and the Law. It is important to note at this point that it is difficult to see how a utilitarian could defend the claim that there is a *prima facie* obligation to obey the law. The utilitarian must argue that obedience to the law, either in particular cases or in general, will have better consequences than disobedience. But it seems that it must be a factual matter as to whether an act of obedience to the law will have good consequences, or be a member of a class of acts that would have good consequences if generally done, or conform to a rule that would have good consequences if everyone acted on it, etc. And thus it seems that the most the utilitarian can argue for is a presumptive obligation to obey the law.

It is important, however, to distinguish two kinds of presumptive obligations. If Y is an intrinsically right-making feature of an act and every case of X is, as a matter of empirical fact, a case of Y, then I shall say that there is a *universal presumptive obligation* to do X. If the connection between X and Y is less than universal, but many cases of X are also cases of Y, then the presumptive obligation is non-universal. It is at least arguable that every case of obedience to the law has, as a matter or empirical fact, some other feature which can be held to be *prima facie* obligatory, such as, if one is a utilitarian, having good consequences (or being of a sort that has good consequences, etc.). Then one could hold that there is a universal presumptive obligation to obey the law.

Many who hold that there is an obligation to obey the law seem to have such a universal presumptive obligation in mind. While this claim is not as strong as the claim that there is a *prima facie* obligation to obey the law, it is still strong and certainly controversial. If it is true, a person will always have some reason for obeying every law because if an act is an act

of obedience to the law, there will *as a matter of fact* always be a reason for doing it. Moreover, if it is ever right to break the law, there is always some reason to obey that has been overridden. It is, moreover, the strongest claim that can be made on utilitarian grounds, and many would defend an obligation to obey the law on just such grounds.

I suggest, then, that a proponent of the OL-principle is saying, with respect to the power of the obligation, either that there is a complex *prima facie* obligation to obey the law or that there is a universal presumptive obligation. Which he is holding will depend on what he appeals to in defense of his thesis: on whether he appeals to some necessary characteristic of all instances of law-abidingness or to some feature common to all instances, as a matter of empirical fact.

THE STRENGTH OF THE OBLIGATION

We must now take up the question of the *strength* of this obligation. The strength of an obligation is a function of how easily it overrides or is overridden by other obligations. A weak obligation is rather easily overridden; a strong one overrides many others.

I think that those who hold that there is an obligation to obey the law would hold that it is a rather strong one. In other words, they would want to claim not only that there exists a "defeasible" obligation to obey the law, but also that it is very often our actual duty to obey the law. I shall now try to express this claim more precisely.

Let us note, first, that we can evaluate a law in terms of its content or in terms of the consequences of obeying or disobeying it in particular circumstances. To evaluate a law in terms of its "content" is to evaluate it either in terms of the moral character of the act prohibited or required, or in terms of the consequences of the law's generally being followed. A law forbidding murder is a good law because murder is wrong. A law, such as the one discussed above, requiring the registration of automobiles is a good one because it would have good consequences if generally followed. But from the fact that a law is good (or bad) judged in these ways, it does

not follow that the consequences of obeying it on a particular occasion will be good (or bad). Thus, in the example mentioned the consequences of obeying the automobile registration law were worse than disobeying it, since someone may have died had it been obeyed. On the other hand, there can be bad laws which are such that the consequences of obeying them in a particular case will be better than disobeying them.

First of all, consider good laws, i.e. laws whose "content" is good. A proponent of the obligation to obey the law would certainly say that such laws should be obeyed when the consequences of obedience are good. But what about a good law in those particular cases in which obedience would have worse consequences than disobedience? It seems to me that proponents of the obligation to obey the law would hold that in such cases the law should usually be obeyed. And the same, I think, is true of laws that are indifferent, neither particularly good nor bad. Again I think it would be said that such laws usually should be obeyed, even when there are bad consequences.

But what of bad and unjust laws? It seems to me, again, that it will be held that there are at least some cases in which such laws ought to be obeyed, even if obedience has worse consequences than disobedience. I suspect that most proponents of the obligation to obey the law will hold that bad laws almost always ought to be obeyed. But as a minimum they will say that they must at least sometimes be obeyed, regardless of consequences.

In sum, then, I shall take the claim that there is an obligation to obey the law as asserting that the obligation has at least this strength: when the consequences of obedience are worse than the consequences of disobedience, it still requires obedience to good and indifferent laws *most* of the time and to bad laws *some* of the time.

SKEPTICISM

A person is a skeptic with respect to the obligation to obey the law if he denies both that there is a *prima facie* and a

universal presumptive obligation to obey the law. In denying a *prima facie* obligation to obey the law, the skeptic holds that the fact that an act is in obedience to the law is not in itself a morally good reason for doing it. The mere fact that an act is legally required (or prohibited) can not make right an act which is otherwise wrong (or make wrong an act otherwise right). The "mere legality" of an act is morally irrelevant. In denying a universal presumptive obligation to obey the law, he holds not only that "mere legality" is irrelevant, but that there are *actual* cases in which an act is legally required (or prohibited) and yet no moral reasons at all for doing it (or refraining from doing it). Sometimes there is no moral reason at all for obeying the law.

It should be clear that to say this is not to counsel universal disobedience, or to hold that anything goes, that murder is justifiable, or that we needn't pay our taxes, and so on. In fact the skeptic can hold that almost all laws ought to be obeyed. He can note that many laws prohibit acts that are bad in themselves—*malum in se*; and he can hold that such laws ought to be obeyed. Other laws set up reasonable schemes of social cooperation which are designed to increase social welfare; and he can hold that these, too, should be obeyed. Moreover, he can hold that very often the consequences of disobeying laws, even bad and unjust laws, are worse than obeying them, and thus he can claim that many bad laws ought to be obeyed. Thus, he can hold that there is almost always a good reason for obeying any particular law. In this way he can admit that there is a non-universal presumptive obligation to obey the law, based on the good content of most laws and on the bad consequences disobedience often brings about. What he cannot admit is that the mere fact of illegality is morally relevant or that there is *always* a good reason for obeying the law.

I hope that this clarifies the issue between the skeptic and the nonskeptic and does away with one typical misconception—that on the one hand we have the proponent of the obligation to obey the law who stands for order,

stability, civilization, etc., and on the other hand, the skeptic who espouses anarchism, chaos, instability, and so on. What is at issue is not the relative value of order vs. chaos, although this issue is certainly behind some of the arguments people give for the obligation to obey the law. What is at issue is the precise moral force of the invocation: "do that, because it is the law."

THE OBLIGATION-TO-LAW PRINCIPLES

I have been trying to express what people have in mind when they hold that one has an obligation to obey the law because it is the law, and I have argued in summation that they have in mind the following:

> There is a *moral* obligation to be *law-abiding* which falls on the *citizens* of either (a) every state or (b) states that are just. Being law-abiding means obeying legal prescriptions, fulfilling incurred legal obligations and following proper legal procedures. This obligation is not an absolute obligation but either a *complex prima facie* or a *universal presumptive* obligation. It has the following strength: it requires actual obedience to good and indifferent laws most of the time and to bad laws some of the time, even when the consequences of obedience are worse than the consequences of disobedience.

In conclusion we can distinguish the following four moral principles; for convenience, I shall simply refer to the strength of the obligation by saying that it is "very strong":

OL1: Every Citizen of every state has a very strong *complex prima facie* obligation to obey all the laws of his state.

OL2: Every citizen of every just state has a very strong *complex prima facie* obligation to obey all the laws of his state.

OL3: Every citizen of every state has a very strong universal presumptive obligation to obey all the laws of his state.

OL4: Every citizen of every just state has a very strong universal presumptive obligation to obey all the laws of his state.

Finally, when someone holds that there is an obligation to obey the law, he has at least one of these four principles in mind.

NOTES

1 This paper is based on the first chapter of a dissertation of the same title, written under the direction of Arnold Kaufman.

2 *The Concept of Law* (Oxford: The Clarendon Press, 1961), chs. III-V.

3 "The Obligation to Obey the Law," *UCLA Law Review*, 10 (1963), 786.

4 Richard C. Brandt, "Utility and the Obligation to Obey the Law," in *Law and Philosophy: A Symposium*, ed. Sidney Hook (New York: New York University Press, 1964), 51.

5 "What Makes Right Acts Right?", in *The Right and the Good* (Oxford: The Clarendon Press, 1930), 16-64.

6 John Rawls, "Legal Obligation and the Duty of Fair Play," in *Law and Philosophy*, 3-4.

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